REMARKS

Reconsideration is respectfully requested. Claims 1 and 9 were present in the application. Claim 1 is amended herein. Claim 9 is canceled. New claim 10 is added.

Further to the office action and advisory action, claims 1, and 9 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Joyse (US 1727235) in view of Hakker (US 2236368).

Applicant respectfully traverses. As noted above, claim 9 is canceled, and new claim 10 is added. Claim 1 is amended.

It is respectfully submitted that the claims as presented are allowable.

Support for the amendment language of the distance between pivots less than the width of the base is provided by the FIG. 1 as filed, for example.

As noted previously, the applicant studied the US Patents 1,727,235 in the name of Joyse and 2,236,368 in the name Haaker and believes that they do not defeat novelty of the present application claims. Applicant's arguments are set below.

Claim 1 as amended, and new claim 10, include the concept of each pivot being located at the base bottom, away from the external border of the corresponding part of the body, at a distance L_1 providing distance between pivots less than the

width of the base. Such teaching is not found in Joyse and Haaker, whether considered alone or when combined.

Accordingly, claims 1 and 10 are submitted to be allowable.

Further, as applicant has argued before, in Joyse as well as in the earlier cited Ngan, when the shells are not at a fully open position the construction has a slippery condition that is connected with the very close location of pivot points. This construction was not worked out for providing a condition of true equilibrium when the shells are not fully open.

In Joyse pivot points are located exactly on the external of the casing shell's edge, which closes out realizing the features indicated in claim 1 of the present application, according to which "each pivot being located, away from the external border of the corresponding part of the body, at a distance which is selected according to a condition excluding the return of the body parts to the initial position by the weight of the bottom and the weight of the glass container at a preset opening angle of the body parts". Therefore, the difference of the present applied invention from Joyse is apparent and non-obvious. At this the said distance is limited by the width of a pivot. As for the change of the container's weight during drinking of a beverage, tendency of such a change would be apparent - weight decreases. That is why a distance for location of a pivot is selected with account of initial (maximum) weight of a container.

It was necessary for the applicant (for saving a glass container from the consumer's careless movement or for its saving from strokes on glass) that the shells are not wholly opened and, at the same time, that they are not closed due to the container's weight and to exclude the possibility of their closing in half-open position. At this the casing with a container should be in a condition of true equilibrium. For this purpose it is necessary to locate the pivots at a preset distance, conditions of determining of which are set in claim 1 of the application.

In Haaker, as well as in earlier cited L'Enfant, in spite of presence of a flexible strap for limitation of the shells opening there is no lifting platform in it. When situating a glass container into a box according to Haaker as well as according to L'Enfant the shells will fold. Looking through the present application (see Figs. 2, 3) it is clear even for a not skilled person that the applicant solves a rather different problem, namely, to avoid the shells' (parts 2 of the body) folding. To avoid the shells' folding it is necessary that the center 6 of mass (see figs. 2, 3) of each body part passes through the corresponding vertical plane 7 going through points of contact between the body part and the supporting surface. Thus (Fig.2 of the present application), the parts 2 of the body can fold, and when the according mass of parts 2 of the body is chosen, they will pass through the corresponding vertical plane

7 (see Fig.3) and will never fold. A flexible limiter 10 in the applied device is compulsory; otherwise the parts 2 will wholly open and fall on the supporting surface.

The technical solution according to the present application is connected with Joyse and Haaker patents only by that they refer to one and the same field of techniques and by presence of some alike constructive elements. But the elements themselves are of different functions, connections between the construction elements are different, and the technical solutions of Joyse and Haaker patents do not solve the problem set by the applicant and do not achieve its technical result.

It is impossible to combine Joyse and Haaker to obtain the invention described in the claims of the present application. Looking at figures of all these patents it is impossible to understand how they should be combined to obtain, for example, Fig. 3 of the present application, and applicant's claims.

The applicant's explanations are set above. It is not clear for a person skilled in art how Joyse and Haaker should be combined for obtaining the applied invention. These patents have no means preventing closing of shells of body opened by a consumer.

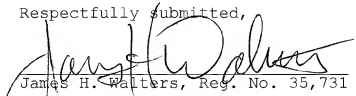
It is accordingly respectfully submitted that the claims should be allowed.

In light of the above noted amendments and remarks, this application is believed in condition for allowance and notice

thereof is respectfully solicited. The Examiner is asked to contact applicant's attorney at 503-224-0115 if there are any questions.

It is believed that the required fees are being submitted herewith. However, if additional fees are required to keep the application pending, please charge deposit account 503036. If fee refund is owed, please refund to deposit account 503036.

Respectfully submitted,



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